

**UNITED STATES DISTRICT COURT**

**EASTERN DISTRICT OF TEXAS**

**MARSHALL DIVISION**

**UNITED STATES OF AMERICA**

**V.**

**BEAU DANIEL MERRYMAN**

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§

**NO. 2:19cr11**  
**(Judge Gilstrap/Payne)**

**DEFENDANT'S MOTION FOR PSYCHOLOGICAL/ PSYCHIATRIC  
EXAMINATION TO DETERMINE COMPETENCY OF DEFENDANT**

TO THE HONORABLE RODNEY GILSTRAP, UNITED STATES MAGISTRATE JUDGE  
FOR THE EASTERN DISTRICT OF TEXAS:

COMES NOW the Attorney of Record for the Defendant, BEAU DANIEL MERRYMAN,  
and files this, his *Motion for Psychological / Psychiatric Examination* pursuant to Title 18 U.S.C.  
§ 4241(a) and (b), pursuant to the guidance of 18 U.S.C. § 4247 and would show this Honorable  
Court as follows, to-wit:

**I**

**PROCEDURAL HISTORY**

- (1) On October 16, 2019, the Federal Grand jury for the Eastern District of Texas returned an Indictment against, BEAU DANIEL MERRYMAN alleging violations of 18 U.S.C. § 842(p)(2)(A) Distribution of Information Relating to Explosives and Destruction Devices.
- (2) On October 18, 2019 the Defendant BEAU DANIEL MERRYMAN made his initial appearance in the Tyler Division and the undersigned Counsel from The Office of the Federal Defender was appointed to represent the Defendant.
- (3) A detention hearing is scheduled before this Court on October 23, 2019.

II

**GROUND FOR MOTION**

Defendant's counsel requests that a psychological examination of Defendant be conducted pursuant to 18 U.S.C. § 4241et seq. Counsel for Defendant would request that the examination be conducted by the Bureau of Prisons at a federal medical facility, for any necessary period, up to and including 120 days. Specifically, counsel for the Defendant would request this examination to determine whether the Defendant is presently competent to stand trial in this matter, as the term "competent" is defined under law, including whether he has the ability to understand the nature and substance of the proceedings as well as whether he has the present ability to assist in his own defense.

From information received from counsel's own observations and from others who have had contact with the Defendant, the undersigned has just cause to believe that the Defendant is presently suffering from a mental disease or defect rendering him mentally incompetent to the extent that he can neither (1) sufficiently understand the nature or consequences of the proceedings against him nor can he (2) assist properly in his defense.

Defendant's counsel understands that this motion tolls any speedy trial time from Indictment to trial pursuant to Title 18 U.S.C. § 3161(h)(4) and (7)(A).

WHEREFORE, PREMISES CONSIDERED, the Defendant, BEAU DANIEL MERRYMAN prays the Court issue an order commanding a psychological and / or psychiatric evaluation of the Defendant be conducted by the Bureau of Prisons, at a Unit of suited for such evaluations, to determine the Defendant's present mental competence to stand trial. Specifically,

Defendant BEAU DANIEL MERRYMAN would request that the examination be conducted to determine his present competency to stand trial and, as of the time of the filing of this Motion, NOT his sanity at the time of the alleged offense.

**CERTIFICATE OF CONFERENCE**

Defendant's counsel has spoken with Assistant United States Attorney FRANK COAN regarding this motion, and he is not opposed to the granting of this motion.

Respectfully submitted,

/s/ Kenneth R. Hawk, II  
KENNETH R. HAWK, II  
Assistant Federal Defender  
Eastern District of Texas  
110 North College, Suite 1122  
Tyler, Texas 75702  
(903) 531-9233  
FAX: (903) 531-9625  
Texas Bar Number: 09243650  
*Attorney for Defendan*



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**CERTIFICATE OF SERVICE**

I hereby certify that on October 22, 2019, I electronically filed the foregoing with the Clerk of the District Court using the CM/ECF system, which sent notification of such filing to the following:

1. Frank Coan  
Email: frank.coan@usdoj.gov

And, I hereby certify that I have mailed by the United States Postal Service the document to the following non-CM/ECF participant(s).

Respectfully submitted,

/s/ Kenneth R. Hawk, II  
KENNETH R. HAWK, II  
Assistant Federal Defender  
Eastern District of Texas  
110 North College, Suite 1122  
Tyler, Texas 75702  
(903) 531-9233  
FAX: (903) 531-9625  
Texas Bar Number: 09243650  
*Attorney for Defendant*